

CENTER FOR DISABILITY ACCESS
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Scott Johnson

Plaintiff,

v.

1800 RC Partners, LLC, a
California Limited Liability
Company;
Caliber Bodyworks LLC, a
California Limited Liability
Company

Defendants.

Case No.

**Complaint For Damages And
Injunctive Relief For Violations
Of: Americans With Disabilities
Act; Unruh Civil Rights Act**

Plaintiff Scott Johnson complains of 1800 RC Partners, LLC, a California Limited Liability Company; Caliber Bodyworks LLC, a California Limited Liability Company; and alleges as follows:

PARTIES:

1. Plaintiff is a California resident with physical disabilities. Plaintiff is a level C-5 quadriplegic. He cannot walk and has significant manual dexterity impairments. He uses a wheelchair for mobility and has a specially equipped van.

1 2. Defendant 1800 RC Partners, LLC owned the real property located at
2 or about 1800 Industrial Way, Redwood City, California, between May 2021
3 and December 2021.

4 3. Defendant 1800 RC Partners, LLC owns the real property located at or
5 about 1800 Industrial Way, Redwood City, California, currently.

6 4. Defendant Caliber Bodyworks LLC owned Caliber Collision located at
7 or about 1800 Industrial Way, Redwood City, California, between May 2021
8 and December 2021.

9 5. Defendant Caliber Bodyworks LLC owns Caliber Collision located at or
10 about 1800 Industrial Way, Redwood City, California, currently.

11 6. Plaintiff does not know the true names of Defendants, their business
12 capacities, their ownership connection to the property and business, or their
13 relative responsibilities in causing the access violations herein complained of,
14 and alleges a joint venture and common enterprise by all such Defendants.
15 Plaintiff is informed and believes that each of the Defendants herein is
16 responsible in some capacity for the events herein alleged, or is a necessary
17 party for obtaining appropriate relief. Plaintiff will seek leave to amend when
18 the true names, capacities, connections, and responsibilities of the Defendants
19 are ascertained.

20
21 **JURISDICTION & VENUE:**

22 7. The Court has subject matter jurisdiction over the action pursuant to 28
23 U.S.C. § 1331 and § 1343(a)(3) & (a)(4) for violations of the Americans with
24 Disabilities Act of 1990, 42 U.S.C. § 12101, et seq.

25 8. Pursuant to supplemental jurisdiction, an attendant and related cause
26 of action, arising from the same nucleus of operative facts and arising out of
27 the same transactions, is also brought under California's Unruh Civil Rights
28 Act, which act expressly incorporates the Americans with Disabilities Act.

1 9. Venue is proper in this court pursuant to 28 U.S.C. § 1391(b) and is
2 founded on the fact that the real property which is the subject of this action is
3 located in this district and that Plaintiff's cause of action arose in this district.

4
5 **FACTUAL ALLEGATIONS:**

6 10. Plaintiff went to Caliber Collision in May 2021 and December 2021
7 with the intention to avail himself of its goods or services motivated in part to
8 determine if the defendants comply with the disability access laws.

9 11. Caliber Collision is a facility open to the public, a place of public
10 accommodation, and a business establishment.

11 12. Unfortunately, on the dates of the plaintiff's visits, the defendants failed
12 to provide wheelchair accessible parking in conformance with the ADA
13 Standards as it relates to wheelchair users like the plaintiff.

14 13. Caliber Collision provides parking to its customers but fails to provide
15 wheelchair accessible parking.

16 14. One problem that plaintiff encountered was that there was no access
17 aisle that accompanied the ADA parking stall. What is more, there was no
18 striping whatsoever for the lone parking stall ostensibly designed for persons
19 with disabilities. There was also no ADA signage in front of the parking stall.

20 15. Plaintiff believes that there are other features of the parking that likely
21 fail to comply with the ADA Standards and seeks to have fully compliant
22 parking for wheelchair users.

23 16. On information and belief, the defendants currently fail to provide
24 wheelchair accessible parking.

25 17. Additionally, on the dates of the plaintiff's visits, the defendants failed
26 to provide accessible entrance door hardware in conformance with the ADA
27 Standards as it relates to users like the plaintiff.

28 18. Caliber Collision provides door hardware to its customers but fails to

1 provide accessible entrance door hardware.

2 19. A problem that plaintiff encountered was that the entrance door
3 hardware had a pull bar style handle that required tight grasping to operate.

4 20. Plaintiff believes that there are other features of the door hardware that
5 likely fail to comply with the ADA Standards and seeks to have fully compliant
6 door hardware.

7 21. On information and belief, the defendants currently fail to provide
8 accessible door hardware.

9 22. The failure to provide accessible facilities created difficulty and
10 discomfort for the Plaintiff.

11 23. These barriers relate to and impact the plaintiff's disability. Plaintiff
12 personally encountered these barriers.

13 24. As a wheelchair user, the plaintiff benefits from and is entitled to use
14 wheelchair accessible facilities. By failing to provide accessible facilities, the
15 defendants denied the plaintiff full and equal access.

16 25. The defendants have failed to maintain in working and useable
17 conditions those features required to provide ready access to persons with
18 disabilities.

19 26. The barriers identified above are easily removed without much
20 difficulty or expense. They are the types of barriers identified by the
21 Department of Justice as presumably readily achievable to remove and, in fact,
22 these barriers are readily achievable to remove. Moreover, there are numerous
23 alternative accommodations that could be made to provide a greater level of
24 access if complete removal were not achievable.

25 27. Plaintiff will return to Caliber Collision to avail himself of its goods or
26 services and to determine compliance with the disability access laws once it is
27 represented to him that Caliber Collision and its facilities are accessible.
28 Plaintiff is currently deterred from doing so because of his knowledge of the

1 existing barriers and his uncertainty about the existence of yet other barriers
 2 on the site. If the barriers are not removed, the plaintiff will face unlawful and
 3 discriminatory barriers again.

4 28. Given the obvious and blatant nature of the barriers and violations
 5 alleged herein, the plaintiff alleges, on information and belief, that there are
 6 other violations and barriers on the site that relate to his disability. Plaintiff will
 7 amend the complaint, to provide proper notice regarding the scope of this
 8 lawsuit, once he conducts a site inspection. However, please be on notice that
 9 the plaintiff seeks to have all barriers related to his disability remedied. See
 10 *Doran v. 7-11*, 524 F.3d 1034 (9th Cir. 2008) (holding that once a plaintiff
 11 encounters one barrier at a site, he can sue to have all barriers that relate to his
 12 disability removed regardless of whether he personally encountered them).

13
 14 **I. FIRST CAUSE OF ACTION: VIOLATION OF THE AMERICANS**
 15 **WITH DISABILITIES ACT OF 1990** (On behalf of Plaintiff and against all
 16 Defendants.) (42 U.S.C. section 12101, et seq.)

17 29. Plaintiff re-pleads and incorporates by reference, as if fully set forth
 18 again herein, the allegations contained in all prior paragraphs of this
 19 complaint.

20 30. Under the ADA, it is an act of discrimination to fail to ensure that the
 21 privileges, advantages, accommodations, facilities, goods and services of any
 22 place of public accommodation is offered on a full and equal basis by anyone
 23 who owns, leases, or operates a place of public accommodation. See 42 U.S.C.
 24 § 12182(a). Discrimination is defined, inter alia, as follows:

- 25 a. A failure to make reasonable modifications in policies, practices,
- 26 or procedures, when such modifications are necessary to afford
- 27 goods, services, facilities, privileges, advantages, or
- 28 accommodations to individuals with disabilities, unless the

1 accommodation would work a fundamental alteration of those
2 services and facilities. 42 U.S.C. § 12182(b)(2)(A)(ii).

3 b. A failure to remove architectural barriers where such removal is
4 readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv). Barriers are
5 defined by reference to the ADA Standards.

6 c. A failure to make alterations in such a manner that, to the
7 maximum extent feasible, the altered portions of the facility are
8 readily accessible to and usable by individuals with disabilities,
9 including individuals who use wheelchairs or to ensure that, to the
10 maximum extent feasible, the path of travel to the altered area and
11 the bathrooms, telephones, and drinking fountains serving the
12 altered area, are readily accessible to and usable by individuals
13 with disabilities. 42 U.S.C. § 12183(a)(2).

14 31. When a business provides parking, it must provide accessible parking.

15 32. Here, accessible parking has not been provided in conformance with the
16 ADA Standards.

17 33. When a business provides door hardware, it must provide accessible
18 door hardware.

19 34. Here, accessible door hardware has not been provided in conformance
20 with the ADA Standards.

21 35. The Safe Harbor provisions of the 2010 Standards are not applicable
22 here because the conditions challenged in this lawsuit do not comply with the
23 1991 Standards.

24 36. A public accommodation must maintain in operable working condition
25 those features of its facilities and equipment that are required to be readily
26 accessible to and usable by persons with disabilities. 28 C.F.R. § 36.211(a).

27 37. Here, the failure to ensure that the accessible facilities were available
28 and ready to be used by the plaintiff is a violation of the law.

II. SECOND CAUSE OF ACTION: VIOLATION OF THE UNRUH CIVIL RIGHTS ACT (On behalf of Plaintiff and against all Defendants.) (Cal. Civ. Code § 51-53.)

38. Plaintiff repleads and incorporates by reference, as if fully set forth again herein, the allegations contained in all prior paragraphs of this complaint. The Unruh Civil Rights Act (“Unruh Act”) guarantees, inter alia, that persons with disabilities are entitled to full and equal accommodations, advantages, facilities, privileges, or services in all business establishment of every kind whatsoever within the jurisdiction of the State of California. Cal. Civ. Code § 51(b).

39. The Unruh Act provides that a violation of the ADA is a violation of the Unruh Act. Cal. Civ. Code, § 51(f).

40. Defendants’ acts and omissions, as herein alleged, have violated the Unruh Act by, inter alia, denying, or aiding, or inciting the denial of, Plaintiff’s rights to full and equal use of the accommodations, advantages, facilities, privileges, or services offered.

41. Because the violation of the Unruh Civil Rights Act resulted in difficulty, discomfort or embarrassment for the plaintiff, the defendants are also each responsible for statutory damages, i.e., a civil penalty. (Civ. Code § 55.56(a)-(c).)

42. Although the plaintiff encountered frustration and difficulty by facing discriminatory barriers, even manifesting itself with minor and fleeting physical symptoms, the plaintiff does not value this very modest physical personal injury greater than the amount of the statutory damages.

PRAYER:

Wherefore, Plaintiff prays that this Court award damages and provide relief as follows:

1 1. For injunctive relief, compelling Defendants to comply with the
2 Americans with Disabilities Act and the Unruh Civil Rights Act. Note: the
3 plaintiff is not invoking section 55 of the California Civil Code and is not
4 seeking injunctive relief under the Disabled Persons Act at all.

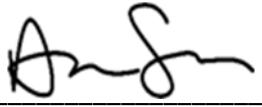
5 2. For equitable nominal damages for violation of the ADA. See
6 *Uzuegbunam v. Preczewski*, --- U.S. ---, 2021 WL 850106 (U.S. Mar. 8, 2021)
7 and any other equitable relief the Court sees fit to grant.

8 3. Damages under the Unruh Civil Rights Act, which provides for actual
9 damages and a statutory minimum of \$4,000 for each offense.

10 4. Reasonable attorney fees, litigation expenses and costs of suit, pursuant
11 to 42 U.S.C. § 12205; and Cal. Civ. Code §§ 52.

12
13 Dated: February 18, 2022

CENTER FOR DISABILITY ACCESS

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15 By: 

16 Amanda Seabock, Esq.
17 Attorney for plaintiff
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